App F IX—4

Previous References
Com 39 57 52

Later References

(1955 56)
Com

File No 39 55
Serial Nos 16 17

MYSORE GOVERNMENT SECRETARIAT

Serial Nos 2

12

Part B for Sept 1956

SUBJECT

Levy of license fees in respect of Petrol in Storage & Kerosene and the Municipal limits — Rights of City Municipality

WD 0249—GPB—25 000—16 9 55

L 79187 29 9 55

The Municipal Commissioner
Mysore City Municipality
Thro the Deputy Commissioner

Sends a reply in the matter

Serial No

From

The Pll Commr Mysore Cly-Mlg

Cr pR 267 50 51 Dj 13 7 55

Requests Orders Re- amendment of

Section 181 (1)(n) of the C M Act 1933

Govt in their Letter No L 13085/CM 39-54-52 dt 28 1 55 Requested the Pll Commrs to take further necessary action in view of the action taken from the Central Govt exempting from the levy of the cesses fee in respect of storage of petroleum in Cly-Mlgs

The Pll Commr was Orders that this subject was considered by the Legal Committee and the Commr was asked at the meeting held on 13 6 55 and 7 7 55

As per Section 181(n) of the Mysore C M Act 1933 any place used for storing, hay, straw, fodder, wood, coal or other combustible material could be controlled by the Mlg Accordingly the Mlg had framed bye laws in this regard as contained in Chapter XXIV of the Mysore Cly-Pll Rules and Byelaws vide Clause 2-(a)-5, 6, 7 & 8 The Govt of India No P 104/4 4 1950 Refers to the petroleum which includes both petrol and Kerosene Since mention is made in Section 181(1)(n) of the C M Act of combustible

2879/111

Amendments of Section 181(1) of the C.M. Act 1933 —

File No Mysore Cy-Pty of 193

Mysore Government Secretariat

Serial No

materials of the Hon'ble Rly. Minister etc at 5 fell that there is any conflict between the provisions of the Govt of India and Mysore Cy-Allies Act 1933, the C.M. Act - Les also may be amended

4) The above views are noted, by the Dy Commr They have requested to pass suitable Orders amending the Section 181(1)(a) of the C.M. Act 1933

5) In this connection it may be noted that the word Contraband material may be taken as generic term which means and includes all materials of the State prohibition and Revenue the State appears to be need to amend the Act but as Rule - Supervision of the by-laws and Rules to framed in this behalf are, suitably amended on deleting the terms prohibition so as to give effect to the provision of the Central Govt

6) The Remarks of the Law Dept may kindly be obtained in the matter as to whether the Act requires amendment in view of the Central Govt notification dated 4.4.1952 as stated by the Dy Commr in his letter dated 13.7.53 —

7) The remarks of the

WD 0.1071—GIP—80 000/5 10 4

4/8 As 6/8

Amendment of Section 181(1) of the C.P. Act 1933

3

Mysore Government Secretariat | 2679/nil File No 926/LD/55-56 of 195 | [App F III 2

Serial No

Law Secy may kindly be obtained on the proposal from Hl comm

Secy (Edn & Lab) — 16/8

9) For remarks —

Law Secy) — 11/8/55

9) "Petroleum and Petroleum products" come under item 53 of List I — Union List of the Constitution in view of this, the Central Petroleum Act, 1934 which is the law on the subject was framed as a State Law — and therefore in view of the ordinance issued under S 31 of the Petroleum Act, 1934 the provisions of the Municipal enactments so far as they relate to "Petroleum and Petroleum Products" get become void. The question of removing such provisions in by amendment of the law is legally not possible since the State Legislature does not possess legislative powers on the subject For orders whether the communication could may be informed accordingly

Secy 18/8

NOTE —Contn sheet

Amendment of Section 181(1) of the C M Act 1933

File No 926 Mysore City Municipality of 195

Mysore Government Secretariat

Serial No

10) Irrespective of any provision in the Mysore City Municipalities Act, 1933, by virtue of the notification of the Govt of India No P 1041, dated the 4th May 1950 under Section 31 of the Petroleum Act, 1934 (Central Act XXX of 1934), the operation of the Mysore Act in so far as it relates to the storage or transport of petroleum becomes limited to the extent specified in the said notification It is not possible for the State Legislature to avoid this limitation by attempting an amendment of the State Act. Nor is it necessary to amend the State Act to comply with the Govt of India notification

Mas 20/8/55

Law Secy)

Secy L S Dy

Mas 23/8/55

13) The legal opinion furnished above is for perusal.

24/8

Draft letters put up for approval

25/8

Mas 30/8

Secy Edn

For perusal

Minister (Edn)

OFFICE OF THE MINISTER FOR PUBLIC HEALTH & LOCAL SELF GOVERNMENT & S.P. No. 2555

SECRETARIAT 6 APR 20 AUG 55 LAW DEPARTMENT

WD 07074—GFP—80 000—5 10 54

2679/141

Procurement & Techn 1816) & KC M Dec 5 1833

'Mysore Government Se retariat | File No | of 195 | [App F III 2

Serial No

17) Draft letters for kind approval

Issue

26/5

Ms 24/9

2 Dr M Comm Mysore &c-Mlg-

L 7918 CM 39-55-17 & 28 & 55 —

Sends a Reply on the matter —

Disposed of the —

6/2

Ms

OTL Contn sheo

No Encls C2 PR 26/50-51

2679

CITY MUNICIPAL COUNCIL
P B No 17

Mysore, Dated 13-7-1955

From

THE MUNICIPAL COMMISSIONER
City Municipal Council
MYSORE

CM 39-55-10

To

The Secretary to Government,
Education and L S C Departments,
Bangalore 1

(Through the President)

Sir

Subject Levy of license fees in respect of storage of kerosine and petrol in the municipal limits

Ref Your letter No L 13085/CM 39-54-52 dated 28-1-1955

The subject was considered by the Legal Committee and the Council in detail at the meeting held on 13-6-1955 and 7-7-1955

As per section 181(n) of the Mysore City Municipalities Act any place used for storing hay, straw fodder wood coal or other combustible material could be controlled by the Municipality Accordingly the Municipality had framed bylaws in this regard as contained in Chapter XXIV of the Mysore City Municipal Rules and Byelaws vide clause 2(a)5 6, 7 and 8 The notification of the Government of India No P 104/4-4-1950 refers to the petroleum which includes both petrol and kerosine As per this notification, the Central Government has limited the operation of the enactments specified in the schedule so far as the said enactments relate to storage or transport of petrol One of the enactments mentioned in the schedule is the Mysore City Municipalities Act Since mention is made in Sec 181(1)n of the City Municipalities' Act of combustible materials other than hay straw etc , if it is felt that ~~that~~ there is any conflict between the notification of the Government of India and Mysore City Municipalities Act, the Mysore City Municipalities' Act has itself to be amended

The Council have therefore approved of a note placed by Municipal Commissioner (copy enclosed) that necessary action may be taken in this behalf agreeably with the Government of India Notification No P 104/4-5-1950 I enclose a copy of the resolution and request that orders of Government may kindly be obtained regarding the amendment of the C M Act Sec 181 suitably

Yours faithfully,

(N Lakshman Rau)
Municipal Commissioner

Forwarded with compliments

(K Puttaswamy)
President

snr

Municipal Commissioner's ote dated 5-7-1955

As per Section 181(1)(n) of the M C I Act any place used for storing hay, straw fodder wood, coal or other combustible material could be controlled by the Municipality Accordingly, the Municipality has passed the byelaws in this behalf which are contained in Chapter XXIV vide Clause 6(a),5 6 7 and 8 The notification of the Government of India No P 104 dated 4-4-1950 refers to petroleum which includes both petrol and kerosene As per this notification, the Central Government has limited the operation of the enactments specified in the schedule so far as the said enactments relate to the storage or transport of petroleum One of the enactments mentioned in the schedule to this order is the Mysore City Municipalities' Act But as I have pointed out above, there is mention made in 181(1)n of combustible materials other than hay, straw fodder and wood If it is felt that there is any conflict between the notification of the Government of India and the Mysore City Municipalities' Act the M C I Act itself will have to this extent be amended Therefore perhaps a resolution may be passed accordingly and a reference made to Government for taking up the question at the Governmental level

x x x

Sd/- V Lakshman Rau,
Municipal Commissioner

Copy

For Commissioner

Proceedings of the Adjourned meeting of the
Mysore City Municipal Council held on 6-7-1955 at 4 p m

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295 Legal Committee resolution No 7/13-6-1955,
opining that steps have to be taken agreeably to the
notification of the Government of India No F 104/4-5-1950
vide correspondence ending with No L 13085/C 89-54-52
dated 28-1-1955 in Council resolution No 375/29-6-1950,
regarding enhancement of rates with regard to licensing
of petroleum and kerosine storage godown)

Commissioner's note approved

Sd K Puttaswamy,
President

Copy

for Municipal Commissioner

Subject Levy of license fees in respect of Storage of Kerosene and petrol in the M/ limits — Petroleum Act-M/G

No L 7918/CH 39 55-17 D 29-9-55

Petroleum

The M/ Commr/Ch M/G

Sir

With reference to your letter no C2 PR 24/50-51 D 13 7 55 on the above subject I am directed to state that irrespective of any provision in the Petroleum Act-M/G Act 1933, by virtue of the notification of the Govt of India no P 104, dated the 4th May 1950, under section 31 of the petroleum Act 1934 (Central Act XXX of 1934) the operation of the Bombay Act in so far as it relates to the storage or transport of petroleum becomes limited to the extent specified in the said notification

Therefore it is not possible for the State Legislature to amend the

Requesting orders of Govt Re the amendment of the CM Act Sec 181 Accordingly

limitation by attempting an
amendment of the State Act
Nor is it necessary to amend
the State Act to comply with
the first of Indian notification

31/8

Copy

No C 7918 /CM 39-55-11
& 29-9-55

The

Education & L S G Departments

The Municipal Commissioner,
Mysore City Municipality, ~~Mysore~~,
thro' the President

Sir,

Subject:- Levy of license fees in respect of storage of Kerosene and Petrol in the Municipal limits - Mysore City Municipality

-:-

With reference to your letter No C2 P R 26/50-51 dated 13-7-1955, on the above subject requesting orders of Government regarding the amendment of the City Municipalities Act Section 181 suitably, I am directed to state that irrespective of any provision in the Mysore City Municipality Act, 1933, by virtue of the Notification of the Government of India, No P 104, dated the 4th May 1950, under Section 31 of the Petroleum Act 1934 (Central Act XXX of 1934), the operation of the Mysore Act in so far as it relates to the storage or transport of petroleum becomes limited to the extent specified in the said Notification It is therefore not possible for the State Legislature to avoid the limitation by attempting an amendment of the State Act Nor is it necessary to amend the State Act to comply with the Government of India Notification

Yours faithfully,

(V Hanumanthappa)
For Secretary to Government,
Education & L S G Departments

HGN 2/27 9